Appendix 1

The following are excerpts from the Transcript of Record in the appeal of the injunctive proceedings showing the introduction in evidence of the various state statutes setting up and defining the powers of The South Carolina Tricentennial Commission; only the 1968 and 1969 acts were in issue and their texts are reproduced in Appendix 3.

* * *

By Counsel for the Tricentennial Commission (Pages 29-30, Transcript):

MR. GRAYDON: Judge, we are prepared to go forward and present our testimony but, first, we would like to introduce the various Statutes, which we think are in contest. First of all is Act No. 925 of 1956, which is the Statute creating the Tricentennial Commission.

(Photostat of Act No. 925 of 1956 received in evidence and marked Defendant's Exhibit "A". G.W.C. Jr.)

MR. GRAYDON: The second is No. 1141 of 1966, which is the Statute essentially deleting the provisions of the 1956 Statute and substituting certain provisions therefor.

(Photostat of Act No. 1141 of 1966 received in evidence and marked Defendant's Exhibit "B". G.W.C. Jr.)

MR. GRAYDON: The third is No. 1384, which is an Act of 1968, amending the prior Acts.

(Photostat of Act No. 1384 of 1968 received in evidence and marked Defendant's Exhibit "C". G.W.C. Jr.)

MR. GRAYDON: The fourth is Act No. R-293 of the 1969 Statutes, which is a joint-resolution which gave The Tricentennial Commission the power of eminent domain.

(Photostat of Act No. R-293 of 1969 received in evidence and marked Defendant's Exhibit "D". G.W.C. Jr.)

* * *

The texts of Exhibits C (1968) and D (1969) are contained in Appendix 3.

Appendix 2

Appellant has reproduced letters from HUD officials and HUD regulations which were not in the trial record in either proceeding or in the record on appeal. The following

are excerpts from the record on appeal which relate to HUD, except references to the fact that HUD funds are being used in the acquisitions and testimony which is repetitive of these excerpts:

* * *

Testimony of James M. Barnett, Executive Director of The South Carolina Tricentennial Commission (Pages 56-61, Transcript):

Direct examination by Counsel for The Tricentennial:

Q. In connection with the acquisition of properties for The Tricentennial, did you have charge of that?

A. Yes, sir.

Q. And I believe properties are being acquired in Charleston which are known as "Old Town"?

A. Yes, sir.

Q. And what is being acquired in Greenville?

A. There is a park being acquired in Greenville.

Q. And then the third acquisition was what?

A. That was in Columbia.

Q. And that is what?

A. That is the Hampton-Preston block.

Q. That is a four-acre block in Columbia?

A. A four-acre block, yes, sir.

Q. And that includes the property of Miss Timmons?

A. Yes, sir.

Q. Now, did you go to Atlanta and get a grant from HUD in connection with the acquisition of all of this property?

A. We applied to the Federal Government for assistance in purchasing all of these permanent parks, which would be a part of the legacy of the 300th Celebration.

Q. The 300th Anniversary Celebration?

A. Yes, sir.

Q. And was that true in all three instances?

A. That's true in all three instances.

Q. And on what basis is the Federal Government supplying the funds?

A. The Federal Government is supplying a percentage of the acquisition funds for the property.

Q. What percentage?

A. Fifty per cent.

Q. Now, in the case of Columbia, that would be what amount?

A. That would be approximately $430,000.00 to $450,000.00.

A. And that was based on acquisition funds of what amount?

A. That was based on appraisals.

Q. I see. How much was the State supplying?

A. The State would be supplying twenty-five per cent of the acquisition costs.

Q. I see and the Federal Government fifty per cent?

A. Yes, sir.

Q. And the remainder came from where?

A. From Local Governments, that is, the City of Columbia and the County of Richland.

Q. Did you acquire other funds from the State?

A. Yes. The State supplied the majority of the development funds for each property.

Q. Now, did you make a presentation at the time Mrs. Dreher was before the Legislature? Did you make a presentation as to the allocation of these funds?

A. I did, sir.

Q. Do you have a copy of that presentation?

A. Yes, sir.

Q. That shows that what funds were to be allocated to the Columbia project?

A. $600,000.00 was to be allocated to the Columbia project for land acquisition and $300,000.00 was to be allocated for development.

MR. GIBBES: Judge, we object to this line of questions. We are not concerned today with property values.

THE COURT: Well, I don't think the testimony is directed to property values. You have raised the question of the disposition of the property after the Tricentennial

Celebration. There is a Statutory amendment that affects the disposition of the property when they are assisted with funds of the Housing and Urban Development Department of the Federal Government. It says that, under those circumstances, the property must go to the State government. So I think that this testimony is proper. Go ahead, Mr. Graydon.

MR. GRAYDON: All right, sir. Now, that shows the allocation of $600,000.00 to the Columbia project for land acquisition?

THE WITNESS: Yes, sir.

Q. And $300,000.00 for development?

A. That's correct.

Q. And in addition to that, I believe, the City of Columbia and the County of Richland each contributed $150,000-.00, is that correct?

A. That's correct.

Q. Then the Federal Government's share, provided all of the properties were acquired is approximately $450,000.00?

A. Approximately.

Q. It's not exact because, I think, some of the funds are allocable to relocation and things of that nature?

A. That has to be determined later.

MR. GRAYDON: We would like to introduce that in evidence.

THE COURT: All right, sir.

(South Carolina Tricentennial Commission Request for Permanent Improvement Funds Received in Evidence and Marked Defendants' Exhibit "J". G.W.C.Jr.)

MR. GRAYDON: Now, Mr. Barnett, in addition to that, you actually obtained a grant from the Department of Housing and Urban Development?

THE WITNESS: Yes, sir.

Q. Do you have a copy of that grant?

A. I do.

(At this point Mr. Graydon hands document referred to Counsel for the Plaintiff.)

MR. GRAYDON: We offer this in evidence.

The Court: All right, sir, have it marked in evidence.

(Document Referred to Received in Evidence and Marked Defendants' Exhibit "K." G.W.C.,Jr.)

MR. GRAYDON: Now, Mr. Barnett, referring to Part I of this particular document, I call your attention to Section 2, Sub-Paragraph B, and ask that you read that into the record.

THE WITNESS: "The Public Body agrees—"

Q. What is the "Public Body" there?

A. That would be the State of South Carolina, represented by the agency, The Tricentennial Commission.

Q. All right, sir. Go ahead.

A. "—Agrees to retain said land, as developed, for permanent open-space purposes, and the open-space use or uses of said land shall be for park and recreational purposes, conservation of land and other natural resources, or historic or scenic purposes".

MR. GIBBES: Now, if Your Honor pleases, we would object to that and move that it be stricken from the record, if an agreement is entered into by the State Agency or commission, which is contrary to the State Statutes, and which the State or Commission would only be committed as to fifty per cent of its funds, and we would like that objection noted for the record.

THE COURT: You contend that the provision read into the record is contrary to some Statute?

MR. GIBBES: Yes, Your Honor. It's contrary to the Acts setting up the Commission and directing how funds will be spent under State law and, of course, our objection would run to this particular agreement. Our contention is that the Act, which Your Honor has before you, that the provisions of the Act are contrary to this agreement, and that the State law would be controlling rather than the terms of the agreement.

THE COURT: What particular Act are you referring to?

MR. GIBBES: Our reference, Your Honor, is to the provisions of Joint Resolution No. 1141.

MR. GRAYDON: Is that of 1968?

MR. GIBBES: Of 1966 as amended by, or as allegedly amended by No. 1384 of the Acts of 1968, April 26th, with particular reference to that part designated in the 1968 Act as "Section 1", which Mr. Morrisett has already quoted to the Court, and which I will publish again if the Court desires it. It simply says, by way of summary, that the property acquired with participating funds from the United States Department of Housing and Urban Development "shall be turned over to the State or such other Governmental entity as the General Assembly may direct". And then Section 5 follows, which shows, the amended version, which says: "All property acquired or held prior to the termination of the Commission shall be disposed of as it sees fit and any moneys remaining shall be deposited in the general fund of the State".

MR. GRAYDON: Of course, Your Honor, he hasn't read the last part there, which says it is to be preserved.

MR. GIBBES: I will be happy to read that, Your Honor, if Mr. Graydon will just let me.

THE COURT: Well, you read the first part. It says, "Provided, however", and so on that it "shall be turned over to the State—to be preserved and used for park purposes", and the provision read into the record says exactly that as I read it. Your objection is in the record.

* * *

THOMAS O. LAWTON, JR., chairman of The South Carolina Tricentennial Commission (Page 91, Transcript):

DIRECT EXAMINATION

By Counsel for The Tricentennial:

Q. Now, Mr. Lawton, are you familiar with the HUD grants under which these properties are being obtained?

A. Yes, sir, I am.

Q. Was a Statute enacted in 1968 in connection with those particular grants? I refer you to Exhibit "C".

A. Yes, sir.

Q. And does that direct the manner in which these

properties will be disposed of upon the termination of the Tricentennial year?

A. It does. This Act provides that any property which the Commission has acquired prior to the termination of the Commission would be disposed of as the Commission saw fit, and that any monies remaining would be deposited with the general funds of the State; provided, however, that any properties which were acquired with HUD grants would be turned over to the State of South Carolina—to the State or to such other Governmental entity as the General Assembly may direct, and on the further condition that they be preserved and used for park purposes.

Q. And you are acquiring these properties, that is, the Charleston properties, and the Columbia properties, and the Greenville properties, with a view of turning them over to the State at the end of the Tricentennial Celebration for park purposes?

A. That's correct.

Appendix 3

Statutes of 1968 and 1969 introduced in Record by The Tricentennial Commission

From pages 109-110, Transcript of Record:

DEFENDANT'S EXHIBIT C

(R1269, H2852)

No. 1384

An Act to Amend Act No. 925 of 1956, As Amended, Relating To The South Carolina Tricentennial Commission, So As To Further Provide For The Disposition Of Certain Property.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Disposition of property.—Act No. 925 of 1956 as last amended by Act No. 1141 of 1966 is further amended by adding at the end of Section 5 of

SECTION 1, the following: Provided, however, that all property acquired with participating funds from the United States Department of Housing and Urban Develop-

ment under Title VII of the Housing Act of 1961, as amended, shall be turned over to the State or such other governmental entity as the General Assembly may direct, to be preserved and used for park purposes."

Section 5 when amended shall read as follows:

"Section 5. All property acquired or held prior to the termination of the commission shall be disposed of as it sees fit and any monies remaining shall be deposited in the general funds of the State. Provided, however, that all property acquired with participating funds from the United States Department of Housing and Urban Development under Title VII of the Housing Act of 1961, as amended, shall be turned over to the State or such other governmental entity as the General Assembly may direct, to be preserved and used for park purposes."

SECTION 2. Time effective.—This act shall take effect upon approval by the Governor.

Approved the 26th day of April, 1968."

From pages 111-112, Transcript of Record:

DEFENDANT'S EXHIBIT D

(R293, S170)

A Joint Resolution To Amend Section 3 Of Joint Resolution No. 925 Of The Acts And Joint Resolutions Of South Carolina, 1956, As Amended By Joint Resolution No. 1141, of 1966 Relating To The Powers Of The South Carolina Tricentennial Commission, So As To Add The Power Of Eminent Domain.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 3 of Joint Resolution No. 925 of 1956, as amended, is further amended by changing the period at the end of item (8) to a comma and adding: "including the exercise of the power of eminent domain in the manner prescribed in Chapter 3, Title 25 of the 1962 Code; provided, that, notwithstanding the provisions of Section 25-128, if the petitioner should abandon the condemnation proceeding, the owner shall be entitled to re-

ceive from the petitioner his costs and expenses, including a reasonable allowance for attorneys' fees, incurred in the proceeding, and the amount of such costs and expenses shall constitute a lien for the payment thereof upon any award theretofore deposited in the proceeding by such authority. Provided, further, that the Attorney General shall be made a party to the condemnation proceedings."

The item when amended shall read as follows:

"(8) to do such other things as it deems necessary in order to carry out the provisions of this act, including the exercise of the power of eminent domain in the manner prescribed in Chapter 3, Title 25 of the 1962 Code; provided, that, notwithstanding the provisions of Section 25-128, if the petitioner should abandon the condemnation proceeding, the owner shall be entitled to receive from the petitioner his costs and expenses, including a reasonable allowance for attorneys' fees, incurred in the proceeding, and the amount of such costs and expenses shall constitute a lien for the payment thereof upon any award theretofore deposited in the proceeding by such authority. Provided, further, that the Attorney General shall be made a party to the condemnation proceedings."

SECTION 2. This act shall take effect upon approval by the Governor.

[Formalities omitted]

Approved the 13th day of May, 1969.

ROBERT E. MCNAIR,
Governor.